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SUBJECT: ENERGY CHARTER SECRETARIAT CAUTIOUSLY OPTIMISTIC
ON RUSSIAN PROPOSALS

Sensitive but Unclassified - not for Internet distribution.

¶1. (SBU) Summary. Ambassador Andre Mernier, Secretary General of the Energy Charter Secretariat, told Econ Officers June 22 that he is cautiously optimistic Russia will be willing to work to add to the existing Energy Charter Treaty (ECT) to address their concerns over gas transit, rather than withdrawing from the ECT as he had originally feared. Moscow had threatened to "withdraw their signature" from the ECT to negotiate a new multilateral energy treaty from scratch. The Russians appear to have reconsidered this position and now appear willing to examine the possibility of expanding the ECT to include "crisis management" provisions. Mernier said that an Ad hoc Working Group will meet September 22 to "try to put some flesh on the bones the Russians have thrown us." Mernier agreed Moscow is seriously concerned about the Yukos case; he expects UNCITRAL in The Hague to rule shortly on the company's claim that Russia's \$30 billion-plus tax penalty was an illegal expropriation under ECT's "provisional application." End Summary.

¶2. (SBU) On June 23 EMinCouns met with Ambassador Andre Mernier, Secretary General of the Energy Charter Secretariat, to discuss the recent Russian proposals for a new international energy treaty. Mernier said that the Secretariat welcomes the Russian suggestions as negotiating points to modernize the Energy Charter Treaty (ECT), but is not willing to start from scratch to negotiate a new treaty based on the Russian suggestions. The Russians argue that the ECT is insufficient because it does not cover gas transit and does not provide mechanisms for crisis management.

¶3. (SBU) Mernier said that the Secretariat is willing to look at "modernizing" the ECT to cover these issues. He said this is a reflection of the Secretariat's longstanding goal of getting ratification by the Russians. He also acknowledged that the world has changed in the 20 some odd years since the ECT was negotiated (principally between Western Europe and the then Soviet Union). At the time the treaty was negotiated, gas transit was not the issue for the parties that it is today.

¶4. (SBU) Mernier is cautiously optimistic Russia will be willing to work to add to the existing Energy Charter Treaty (ECT) to address their concerns over gas transit, rather than withdrawing from the ECT as he had originally feared. Moscow had threatened to "withdraw their signature" from the ECT to negotiate a new multilateral energy treaty from scratch. The Russians appear to have reconsidered this position and now appear willing to examine the possibility of expanding the ECT to include "crisis management" provisions. For its part, Mernier said the Secretariat is willing to look at ways to expand the treaty to cover other areas of concern to the Russians such as nuclear, coal, and oil.

¶5. (SBU) From Mernier's viewpoint, the worse case scenario would have been if Russia really didn't want any treaty at all. By withdrawing from the ECT the Russians could send the international community off on a multi-year, wild goose chase after a treaty that would never materialize. Mernier confided that he was quite concerned when, the day before the last working group on was to be held on June 16, the Secretariat had received no notification that the Russians would be attending. The Russians did, however, send in notification at the last minute (18:00 on June 15) that they would attend. And Mernier was pleased with the preliminary discussions at that working group. Mernier said that an Ad hoc Working Group will meet September 22 to "try to put some flesh on the bones the Russians have thrown us."

¶6. (SBU) Mernier agreed Moscow is seriously concerned about the Yukos case; he expects UNCITRAL in The Hague to rule shortly on the company's claim that Russia's \$30 billion-plus tax penalty was an illegal expropriation under ECT's "provisional application." Ironically, Mernier said it might be good if the case is decided in Russia's favor. Mernier said this would demonstrate to the Russians that international agreements are not just there to work against them.

Murray

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